

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL CASE NO.
JFM-16-469

MARTIN ROBERT HALL,

Defendant

_____ /

(Arraignment/Detention Hearing)
Thursday, May 11, 2107
Baltimore, Maryland

Before: Honorable J. Frederick Motz, Judge

Appearances:

On Behalf of the Government:
Paul E. Budlow, Esquire
Kaylynn Shoop, Esquire

On Behalf of the Defendant:
Adam D. Fein, Esquire
Marc Johnson, Esquire

Reported by:
Mary M. Zajac, RPR, FCRR
Fourth Floor, U.S. Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

1 (Proceedings at 2:33 p.m.)

2 MR. BUDLOW: Your Honor, this is the United States of
3 America versus Martin Robert Hall. It is Criminal Number
4 JFM-16-0469. This matter is scheduled before Your Honor this
5 afternoon for a detention hearing or review of detention, also
6 for an initial appearance and arraignment on a superseding
7 indictment that was handed down on Wednesday.

8 I am Paul Budlow on behalf of the government. Joining
9 me at counsel table is Kaylynn Shoop from the US Department of
10 Justice, she's a trial attorney, and HSI Special Agent Christine
11 Carlson.

12 THE COURT: You all may be seated.

13 MR. JOHNSON: Your Honor, Marc Johnson on behalf, and
14 Adam Fein, on behalf of Mr. Hall, who's also present.

15 THE COURT: Okay. I guess we ought to proceed to the
16 arraignment on the superseding indictment.

17 THE CLERK: Please raise your right hand, Mr. Hall.

18 MARTIN ROBERT HALL, DEFENDANT, SWORN

19 THE DEFENDANT: Yes, ma'am.

20 THE CLERK: Thank you. You can put your hand down.
21 Please state your full name for the record.

22 THE DEFENDANT: Martin Robert Hall.

23 THE CLERK: What is your age?

24 THE DEFENDANT: 55.

25 THE CLERK: The year you were born?

1 THE DEFENDANT: 1962.

2 THE CLERK: Have you read or has the superseding
3 indictment been read to you?

4 THE DEFENDANT: Yes, ma'am.

5 THE CLERK: Do you understand the charges placed
6 against you?

7 THE DEFENDANT: Yes, ma'am.

8 THE CLERK: How do you wish to plead -- I'm sorry. Mr.
9 Hall -- I'm sorry. Mr. Fein and --

10 THE COURT: Mr. Johnson.

11 THE CLERK: -- Mr. Johnson -- I apologize -- you
12 represent the defendant. Are you satisfied that he understands
13 the charges?

14 MR. JOHNSON: Yes.

15 THE CLERK: Mr. Fein?

16 MR. FEIN: Yes.

17 THE CLERK: Thank you. Mr. Hall, how do you wish to
18 plead as to the superseding indictment against you?

19 THE DEFENDANT: Not guilty.

20 THE CLERK: The plea is not guilty as to the
21 superseding indictment, is that correct?

22 THE DEFENDANT: Correct.

23 THE CLERK: Thank you.

24 THE COURT: You all may be seated. Mr. Budlow.

25 MR. BUDLOW: Your Honor, just in terms of the

1 superseding indictment. I understand that was the arraignment.
2 The defendant hasn't had an initial appearance. Would it be all
3 right if I placed on the record the maximum penalties he's facing
4 for the charges?

5 THE COURT: Yes. Yes. I'm sorry.

6 MR. BUDLOW: Your Honor, Counts One and Two have
7 already been returned and the defendant was arraigned and had an
8 initial appearance on both of those back in October of 2016.
9 Counts Three, Four and Five are the new charges from the
10 superseding indictment.

11 In Count Three the defendant is charged with production
12 of child pornography with intent to transport into the United
13 States, under 18 United States Code 2251(c) and (2)(A). There's
14 a mandatory minimum sentence of 15 years and a maximum sentence
15 of 30 years, a maximum of lifetime supervised release, a \$250,000
16 fine, and a \$100 special assessment.

17 As to Count Four, the defendant's charged with
18 production of child pornography that was transported into the
19 United States, under 18 United States Code 2252 -- 2251(c) and
20 (2)(B). Again, there's a 15-year mandatory minimum sentence,
21 30-year maximum, lifetime supervised release, a \$250,000 fine,
22 and a \$100 special assessment.

23 As to Count Five, the defendant is charged with sex
24 tourism under 18 United States Code 2423(c). There's a 30-year
25 maximum sentence, maximum supervision lifetime supervision,

1 \$250,000 fine, and a \$100 special assessment.

2 THE COURT: Thank you.

3 MR. BUDLOW: Thank you, Your Honor.

4 THE COURT: Okay. Mr. Budlow, what's your position?

5 MR. BUDLOW: Thank you, Your Honor. As I stated
6 earlier, the defendant had his initial appearance on the
7 indictment on October the 14th, 2016. He also had a detention
8 hearing that day before Judge Coulson. At that time, when the
9 defendant was charged with transportation and possession of child
10 pornography, the government's position was the defendant should
11 be detained because he's a danger to the community and because
12 he's also a flight risk and a flight, and a risk to obstruct
13 justice.

14 Since that time -- the defendant has now been detained
15 since October. There's been a new indictment. The government's
16 position has not changed.

17 In a nutshell, Your Honor -- and I plan to provide a
18 lengthy proffer. However, I'll start off with an overview. The
19 defendant, Mr. Hall, has been traveling to the Philippines,
20 Thailand, and other countries for the past 15 years at least. In
21 2016 he traveled to Asia from Maryland.

22 THE COURT: He doesn't have a passport.

23 MR. BUDLOW: I'm sorry?

24 THE COURT: He doesn't --

25 MR. BUDLOW: He does not have a passport. However, his

1 conduct while overseas is particularly relevant, not only to the
2 flight risk, but to the danger.

3 He was in April -- he was overseas from April to August
4 of 2016, and while there he produced child pornography of a minor
5 who's age 12 or younger. He was using his Canon digital camera.
6 He also maintained in his home a significant collection of child
7 pornography, at his residence in Baltimore County, including well
8 over a thousand images of child pornography, that is images of
9 children, prepubescent minors engaged in sex acts with adults.

10 The defendant is a highly sophisticated computer user.
11 He travels the world teaching computer code. He also led a
12 double life from his family for years. He had girlfriends
13 throughout the world and throughout the United States, by his own
14 admission.

15 Your Honor, at that detention hearing, Judge Coulson
16 found as a matter of fact, both in writing and verbally, that the
17 defendant was both a danger to the community and a flight risk,
18 and as a result he detained him.

19 Since that time, as I've mentioned, Your Honor, based
20 on similar evidence that was introduced at that hearing, the
21 defendant has now been indicted with producing child pornography
22 while overseas and bringing that child pornography back to the
23 United States with him. So while the case initially was a
24 presumption of detention case based on transportation of child
25 pornography, it is now a case where the procedural posture is

1 that there is a presumption of detention based not only on the
2 transportation of child pornography charge, but also the
3 production of child pornography.

4 As the Court is aware, for Counts One, Three and Five,
5 there is this presumption. As for Count One, there's a mandatory
6 minimum of five years. For Counts Three and Four, there's a
7 mandatory minimum of 15 years.

8 Your Honor, this investigation began when a Baltimore
9 County detective, Detective Josh Rees, was investigating a
10 peer-to-peer program and people who were trafficking in child
11 pornography. He was using a highly -- the detective was
12 particularly investigating a highly sophisticated computer
13 program which is entirely encrypted in terms of the content that
14 people keep on their computers. The detective observed the
15 defendant, his IP address, requesting known images of child
16 pornography.

17 A state search warrant was obtained in August or
18 September of 2016. And on September the 7th of 2016, that search
19 warrant was executed at the defendant's residence, where he lived
20 with just him and his wife. The detectives seized from the
21 basement office, which was the defendant's basement office, a
22 laptop computer, with an external hard drive that was physically
23 connected to it. That external hard drive is the subject of much
24 of the current charges, Your Honor.

25 The external hard drive is encrypted. However, at the

1 time the detectives entered the home, it was up and running. In
2 other words, it was connected to the laptop. The laptop was on.
3 It was in an unencrypted state.

4 The detectives used an on-scene forensic tool which was
5 able to access the external hard drive and observed numerous,
6 thousands of images related to child pornography and child
7 exploitation materials. At that time, the detectives began to
8 copy the images that they observed on the external hard drive to
9 their own devices. And they copied roughly 4600 images, almost
10 100% of them relating to child exploitation, meaning that they
11 are either images of children that are clothed, in sexual
12 positions, or they are images of children nude and engaged in
13 sexual acts. And many of them are progression images, where the
14 child starts clothed, takes portions of clothes off, and later
15 these become lascivious display images and sex acts.

16 That hard drive is still encrypted. The detectives
17 were trying to both download all of the images from the external
18 hard drive and transport it at the same time. As a result, it
19 unmounted from the laptop, became encrypted again and
20 inaccessible.

21 So at that point the detectives only had two things,
22 two general types of things from that external hard drive. What
23 they had was the 4600 or so files that I've just described, as
24 well as what's called a file list. So although it didn't get all
25 of the files, the computer was able to see 75,000, 80,000 files

1 on the computer and it copied over a path. So the file name, the
2 folder location, and some metadata related to those various
3 files. These files I'm referring to are all images of
4 individuals.

5 Again, of the 4600, as I've described, all of them
6 related to the sexual exploitation of children. At least, by a
7 very conservative estimate, at least 1,000 of those images meet
8 the federal definition of child pornography.

9 The images, in addition to having the lascivious
10 display of the genitals and sex acts, many of them involve sex
11 acts between white males and Asian prepubescent females. Many of
12 those images were known images or images that have been part of
13 an identified series, and many of the file names in the images
14 that we copied include ages, such as 9 YO, 8 YO, as well as
15 graphic file names or the names of identified victims.

16 The defendant and his wife both stated that the
17 defendant was the only person to use that device.

18 Your Honor, if I could, I'm going to use the ELMO here
19 for part of my presentation.

20 In a very broad sense, Your Honor, I think I've just
21 described the evidence that supports the charge of possession of
22 child pornography. However, as you know, the defendant's charged
23 with production. I would like to go through some of the evidence
24 so the Court is aware of what the defendant's charge of
25 production of pornography is based on.

1 This is Count One, but most importantly Counts Three
2 and Four. There's a series of files that were located on the
3 external hard drive that were copied over, so part of the files
4 that the investigators got. These seven images depict an
5 individual that's identified in the indictment as Jane Doe.
6 She's a minor female. She's in the images partially naked, and
7 then later she's naked. And then three of the images are
8 close-up images of Jane Doe's vagina.

9 There's a camera that's seized in the basement from the
10 defendant's home. The metadata of the images was compared to the
11 metadata that this camera produces, and it was determined that
12 the same serial number for the device that was seized is the same
13 serial number of the produced device, as indicated by those
14 images. Thus, the defendant's camera was used to take those
15 images.

16 The metadata also included a date, which is listed in
17 the indictment. I think it's July the 25th of 2016. The
18 defendant was in the Philippines on July the 25th, 2015 (sic).

19 The defendant was interviewed at the scene. And the
20 detectives, having found these seven images, asked the defendant
21 a variety of questions about those seven images and information
22 relating to them. And he stated he was in the Philippines when
23 these images were made. He was shown a picture of the girl's
24 face. And he said he knows the girl and, in fact, that is his
25 Filipino girlfriend's sister. And you'll hear later that he

1 admitted to having numerous girlfriends in the Philippines and
2 elsewhere. But he does have a particular girlfriend in the
3 Philippines, and this is her little sister. And he believes she
4 was 12 or 13. He said he believes her name was Sandra.

5 He denied taking the pictures of her, any of them. But
6 he did admit to taking pictures and storing pictures generally on
7 that external hard drive. He stated that no one else uses that
8 external hard drive, and he refused to provide the encryption
9 password to the device.

10 He also said that the camera that the agents seized was
11 his and that no one else uses it.

12 Now, additionally, there are other photographs on
13 various devices of the defendant that leads, that lends support
14 to the production of child pornography charges. On these other
15 devices are photographs of the defendant, the defendant with his
16 family, the defendant's family, various activities here and also
17 on travel. The naming convention of the family photos and the
18 folder structure of the family photos is highly consistent with
19 the naming convention that the, that is used in the seven issues,
20 the seven images at issue here.

21 For example, many of the images, both, of the family
22 images, would have a name such as a place or the subject. For
23 example, we could say "podium" and it would be Podium Space 1,
24 Podium Space 2, through maybe 25 or 30 or 15. And this is done
25 most commonly through a program that will allow a user to batch

1 name images. And many of the images of the defendant's personal
2 family and travel trips were batch named like this.

3 Similarly, I'm going to show the Court what's marked as
4 Exhibit One for the purposes of this hearing, this file path and
5 name. And this relates to the seven images. The ones in red
6 I'll show you first, and I would just point out -- you can see
7 that the red ones and others are all named in a batch format, 5,
8 6, 8, 9, 10, 11, 12. And, also, it was determined that these
9 were part of a series with similar names, Atrium 1-001 through
10 Atrium 1-0012.

11 Additionally, the folder structure in the defendant's
12 personal and family photos typically is organized by location,
13 the date, and then subject. And similarly, you can see that
14 these images were from a location on the defendant's external
15 hard drive that also was done by location, date, and then
16 subject. And I can tell Your Honor that S-T-A space I-N-E-S
17 references various locations in the Philippines.

18 So it's a very similar naming and folder structure.

19 Your Honor, I'd also point out that these other images
20 that you're seeing on this file listing that is Exhibit One for
21 the purpose of the detention hearing are other images that have
22 been identified in the investigation as relating to the same
23 subject, Jane Doe. And the way they were related, as I've
24 stated, Your Honor, as to 1 through 12 of the Atrium series, is
25 that, clearly, based on the metadata showing the date that it was

1 modified, as well as naming convention, they seem related.

2 But additionally, the government was able to locate
3 similarly placed files in the name "Sandra", many in the folder
4 called "sexy." So there's a Sandra mini, a Sandra Atrium sex
5 movie. Then down below, below the 12, there's three more
6 files -- sorry -- one, two, three here, all of which have the
7 name "Sandra" in them, and they're in the folder called "sexy."

8 Next, Your Honor, you'll see that there's a series of
9 files called "August." And the file names are August 1 through
10 August 10. And the way that these have been identified as being
11 the same victim is that the highlighted blue images that were
12 taken on August the 3rd, 2016, before the defendant returned to
13 the United States, while he was still in the Philippines, were
14 captured as part of the copying. And they all depict the same
15 victim.

16 And then, finally, the last image depicted is Sandra
17 skirt, JPEG, also in the "sexy" folder.

18 So those files indicate that there are additional
19 pictures of the same victim, many in a folder called "sexy."

20 Your Honor, I also would add to the evidence that the
21 defendant is the individual who produced these images that he,
22 there's an abundance of evidence that he is sexually attracted to
23 children, starting with the images that we've described on the
24 external hard drive that only he controls. But additionally,
25 there are other images of the defendant, while he was in the

1 Philippines, of minor females, none, not any necessarily that I'm
2 discussing now that meet the definition of child exploitation
3 under federal law. However, there were some of minor females in
4 a hotel room clothed, and then later in a bath tub, apparently
5 nude, but with nothing shown other than their upper torsos.
6 This, taken with the same camera.

7 Additionally, the forensic exam of the defendant's
8 computer revealed that his most recent video watched, upon coming
9 home from the Philippines, prior to the search warrant, was a
10 video with the name -- first of all, it in the folder "sex."
11 The video name was chupoo-8yo-chubby-ass.avi. And agents would
12 indicate that "8 YO" and "chubby" and "A-S-S" are all terms that
13 are indicative of files that are related to child pornography.
14 That was the last video watched on the defendant's VLC player on
15 his home laptop.

16 Additionally, Your Honor, the defendant, in his
17 statement, admitted to agents that he has numerous girlfriends
18 overseas and that he's been traveling to meet these girlfriends
19 overseas for years and years and years. It was clear that the
20 girlfriends he was referring to was young, were young. So the
21 detectives asked him, well, how do you know that the people that
22 you're engaging in these sex acts with are not minors and that
23 they're adults. And the defendant said that he would definitely
24 be concerned that he was going to be blackmailed for that exact
25 purpose while he was in the Philippines, so he would ask for

1 their identifications and ask them what year they were in
2 college, and that he would, in order to engage in these acts with
3 young females, make sure they were at least in their second year
4 of college. That was his own statement to law enforcement.

5 Additionally, Your Honor, his computer shows extensive
6 evidence of a sexual interest in children. He had a Yahoo search
7 or a Yahoo chat that stated: "I want to meet the younger one."
8 He has a Firefox history -- that's a web browsing history,
9 similar to Google -- where there were a number of web activity on
10 a site called MrDouble.bz. And that is a site that offers, on
11 its page, 30,000-plus taboos, teen incest stories, stories about
12 rape, and child molestation. And he had numerous files on his
13 browser that indicated that he was accessing zip files, which
14 would contain additional files.

15 Additionally, the defendant's Google search history was
16 empty but for one search, and that search was best eraser
17 settings, which, of course, would explain why there aren't
18 additional internet-related search history prior to the
19 detectives entering his home, because it's clear that he was
20 looking to erase his Internet activity.

21 Additionally, Your Honor, I mentioned in the external
22 hard drive there were these 70 to 80,000 files that were copied
23 in terms of the list and the metadata, where we don't have the
24 file. However, we have the files names. And I will tell Your
25 Honor that hundreds, if not thousands, of those files are

1 indicative of child pornography. And I just want to give the
2 Court a few examples.

3 A number of them are 9 YO sis Jesha (phonetic) in a
4 folder called "sexy." And then they're batch numbered. This
5 example is one through seven. So a lot of these images that have
6 indications in their file name that they involve minors. Many of
7 them are in areas where the defendant was putting the images of
8 travel and child pornography that he produced.

9 Additionally, there are a number of images that appear
10 to be downloaded from the internet that indicate a sexual
11 interest in children. Specifically, daddy/daughter related, such
12 as Amanda dates Daddy, Bathroom Fun with Daddy, bathroom -- there
13 were literally hundreds of files like that.

14 Next, Your Honor, on the same issue, there were a
15 number of chats through the Skype application that were seized
16 from the defendant's computer. These are communications that he
17 had with people apparently in the Philippines, back and forth
18 conversations, primarily occurring in 2015.

19 And I have Government's Exhibit Two. Your Honor, the
20 font is small. I could bring this one to the Court, but I'm
21 going to put it on the ELMO as well.

22 THE COURT: You can put it on.

23 MR. BUDLOW: It's actually almost too small for me to
24 read. I just want to point out some of these. There's a 4/27/15
25 communication. Let me back up so you can see who the sender is.

1 The sender is on the left.

2 So the person the defendant was talking to here says:
3 What? So young. The defendant says: Well, it's not good to
4 have sex so young if the boy is also young because he might get
5 them pregnant, as you said. Better to have an older one that
6 knows how to please them in bed and will be careful not to get
7 them pregnant.

8 Later on, 10/21/05, there's a conversation with the
9 defendant and somebody who at least in the file name has a, name
10 and then it's typed in there 16, potentially the age. Says: But
11 I'm too young for you. The defendant responds: I like young.

12 September of 2015, there's another conversation by the
13 defendant where the response to him -- this is not his comment,
14 but this is what he's told. I told you I will accept you unless
15 you're still married. I don't want to break marriage. I will
16 never leave you unless you told me so. I'm serious on you. My
17 love for you is real, not fake, because you tour me to many
18 places. It's just your personality yourself.

19 Your Honor, you'll see the you tour me, you'll see that
20 there's evidence that the defendant is spending money in Filipino
21 dollars lavishly on families and young women, traveling with them
22 when he's on his trips to the Philippines.

23 There's another conversation that occurred on July the
24 2nd of 2015 where is he told by a young girl: I hope you
25 understand that Jianne, which is not the speaker, but somebody

1 else, is young. I hope you understand she is too young.

2 Then in June of 2015, there's additional conversation
3 where the defendant is clearly having sexual conversations with
4 this individual. She responds: Hello, Dad, how are you? I'm
5 going to school now. Take care. We love you. Later on, with
6 the same conversation: But how dad? I'm young. You wait. The
7 defendant responds: Next time we fuck every night and every
8 morning, okay? Later on, she says: But I'm young, Dad, never
9 been touched by another guy.

10 Again, Your Honor, in green, in August 2016, another
11 indication that the person the defendant is communicating with
12 thinks she's too young. He talks about having a relationship
13 with somebody for four and a half years. I'm sorry. The person
14 responds about him requesting her to get naked on cam. There's
15 also a lot of discussion in here, Your Honor, about pictures and
16 videos being sent back and forth. So it's clear that the
17 defendant is sending money, visiting people, and requesting
18 images.

19 Here's the defendant referencing somebody else, maybe
20 this girlfriend. She was a nice girl. Talk about how he
21 traveled with her to all these various locations. Later on,
22 there's obviously some clear sexual discussion.

23 In June of 2015, the defendant asks for a picture of
24 this young woman in her school uniform. Asks her what time she
25 leaves for school.

1 Your Honor, here's this exhibit. On Page 6, in June of
2 2015, it's clear that there are images being transmitted to the
3 defendant, immediately following a discussion that appears to be
4 about sex or sleeping together.

5 Also, in 2015, the same individual who just sent him
6 these pictures is having a discussion about sex. Says: So hard
7 to find a part-time job because I'm not 18. Then says: You know
8 the last time -- she references fellatio. I was afraid until
9 now. I still cannot believe that I can do that. That was great.
10 I'm sorry about the teeth.

11 There's another conversation in 2016. Again, what
12 appears to be a 32-year-old woman. But then references: Baby, I
13 hope you understand -- I'm having a hard time. Could you erase
14 that for me, Madam Clerk? I'm not able to make this work today
15 very well. I hope you understand my daughter. She is very, very
16 young.

17 Later on, in June of 2015, the defendant says: I just
18 meant that if you're not ready for sex, it's okay. It hurts the
19 first time, but after that it feels good. And then he references
20 missing kissing this individual, which would indicate that they
21 have had contact in the past.

22 At least according to the notes in these logs, this
23 Nicole Arriola, who the defendant is communicating with, is
24 medium, plus plus braces, 16, ninth grade.

25 Your Honor, on the last page I just want to show a

1 couple more at the top. This is from 2015, where the defendant
2 says: Well, I sent already \$100 US to you in this name before.
3 And later on that woman says to him: It's because I'm really
4 young. When are you coming back here?

5 Your Honor, what a lot of this establishes is that
6 obviously this is not fantasy. The defendant is paying women,
7 many who appear to be young, for images. He is traveling to the
8 Philippines and having contact with them. He is causing them to
9 say, but my daughter, who's very young, is too young for you.
10 And he is spending lavishly on them.

11 Additionally, Your Honor, I'd add that in his statement
12 the defendant was asked about taking pictures here in the US.
13 And he said, this is a quote: "I've never taken any pictures of
14 people in our neighborhood except maybe from a distance, at the
15 pool."

16 There's some additional information on the computers
17 that shows years of the defendant traveling in Asia, with
18 families. And what I mean by that is there are pictures of the
19 defendant with young women with younger children with them.
20 There's never that I can remember an adult male in the picture.
21 And there are hotels. There are pools. There are amusement
22 parks. Just the defendant on what appear to be numerous family
23 vacations throughout Asia, with multiple families. And many, if
24 not all, of the more recent pictures are taken with the exact
25 same Canon Rebel camera that was used to produce the seven images

1 at issue in Counts 1, 3 and 5.

2 There's one particular series, Your Honor, where the
3 defendant is with a family that has a very young girl. She
4 appears to be probably under five. And there's a picture of her,
5 again using the same camera -- she's previously in a picture with
6 the defendant -- sliding down a slide into a pool. Her legs are
7 spread apart and she's wearing a bathing suit. And then later on
8 in the same series there's the exact same conduct, where the
9 young girl is sliding down the pool, in the slide into the pool,
10 with her legs spread, not wearing any clothes, or not wearing any
11 bottom bathing suit, and her genitals are exposed. Again taken
12 with the same camera.

13 Additionally, Your Honor, the defendant admits in the
14 his statement that for years he's been sending money to the
15 Philippines by way of Western Union to hide that activity from
16 his wife.

17 As I referenced earlier, the defendant is a highly
18 skilled computer software instructor. He teaches Java code. He
19 teaches it worldwide. His computers are encrypted. And I'll
20 tell Your Honor, as of this moment the government is still,
21 despite numerous efforts, unable to get into that encrypted
22 external hard drive.

23 The computers that were observed, that they could get
24 into, had wiping software on them, indicating an intent to cover
25 up any of his activity.

1 He told one woman in the Philippines, in one of those
2 chats, to delete her chats. He also -- what started this entire
3 investigation was this peer-to-peer program, which I know Your
4 Honor's heard numerous pleas and trials relating to peer-to-peer
5 programs. This is a different program probably than has been
6 before this Court. It's highly sophisticated. It involves
7 encryption and breaking up of files at very, very high level
8 association, multiple levels. So the defendant is very
9 sophisticated.

10 He, if I didn't mention already, has traveled to
11 numerous countries, including the Philippines, Thailand,
12 Cambodia, Taiwan, Indonesia. Now, he's been to other countries
13 so I'm not leaving those out intentionally. But those countries
14 I just mentioned are all countries not coincidentally known for
15 child sex tourism.

16 He indicates, in his statement to law enforcement, yes,
17 I have numerous girlfriends. And they say, are they all outside
18 of the US? And he says no. So in addition to having girlfriends
19 all over Asia, places we don't know, people who have not been
20 identified, there's also other girlfriends somewhere within the
21 United States.

22 In summary -- and this will probably be, it wasn't a
23 short proffer, it won't be a short summary, but I'll do my
24 best -- the defendant is charged with crimes of violence, there's
25 no other way to say it, and there's a presumption of detention.

1 His conduct reflects that he's a risk to children in Asia, in the
2 United States, in person, and online.

3 He has been literally traveling the world for over 15
4 years with this focus on places known for child sex tourism. He,
5 as charged in the indictment, sexually exploited a young girl, 12
6 years old, who he met through her older sister, whom he claimed
7 to be having an affair with. He admits to 10 or more overseas
8 girlfriends.

9 These chats that we talked about show that he
10 communicated electronically with these girlfriends about sex and
11 about sex with their younger siblings. He exchanges images and
12 videos throughout those chats.

13 He possessed, on his computer, at least thousands of
14 images of child pornography, including many images of
15 prepubescent females engaged in sex acts with adult males. The
16 discussion appears to involve talk of sex with minors losing
17 their virginity, waiting until they're 18, and the defendant's
18 request to have sex with minors.

19 He clearly has a sexual interest in children. He
20 represents the significant threat wherever he goes. That's point
21 one. There's no combination of conditions that can assure the
22 safety of the public.

23 But he's also a flight risk. He is facing significant
24 incarceration, much more so than he was even in October. It's a
25 15-year mandatory minimum. However, the guidelines for cases

1 like this can be anywhere from 20 to 30, upwards toward life,
2 especially if it's shown that he had exploited more than one
3 child or one child on more than one occasion.

4 The defendant has the wherewithal. He's got the
5 contacts. He clearly has the desire to pick up and live a
6 different life, far away from here. Not too common that we see
7 in a case like that.

8 He also is highly sophisticated. He's avoided law
9 enforcement. He's made attempts to avoid law enforcement. He's
10 made attempts to cover up his crimes. And he's led this double
11 life for many, many years.

12 At the last hearing, the defense called the defendant's
13 wife. And one of the things that she testified about was that,
14 and not surprisingly, she had no idea any of this was going on,
15 either in her house or throughout the defendant's travels. How
16 could she? She didn't know the names of his contacts overseas.
17 She didn't know the families overseas. He was literally taking
18 family vacations for years and nobody knew.

19 Clearly, this is not someone who the, who the
20 government -- I'm sorry -- who the Court and Pretrial could trust
21 to be on home detention and electronic monitoring and check in at
22 different calls where the whole basis of that is do I trust this
23 individual, because no matter how stringent any pretrial release
24 conditions are, and this, I would argue, indisputable, it all
25 comes down to the defendant agreeing to abide by those

1 conditions. And there's no way, given this history, the
2 defendant can be trusted not just to take off.

3 He can cut the bracelet. He can run. He can contact
4 somebody in the US. He can contact somebody overseas. We have
5 no idea who these people are. There's no way, given that
6 history, we can trust him.

7 I think it's important to see that this double life was
8 not just overseas because what we're going to hear is it was in
9 the US. He doesn't have a passport. Maybe we can ensure a way
10 to keep him here. Because he led this double life here because
11 he did the preparation here. He did these chats, where he was
12 exploiting children overseas, from his basement. He had this
13 child pornography collection in the United States, in his house,
14 where he says he should go back to live right now.

15 In their motion, the defense claims that he's not a
16 flight risk. I think that his financial resources, his contacts
17 overseas, and the penalties that he's facing clearly show that he
18 is a flight risk.

19 The defense also says that it's common for defendants
20 to get bail even when there's a mandatory minimum, and they cite
21 either drug offenses or violent offenses. I can't actually speak
22 to those. I've had a number of those types of crimes here. I'll
23 say in my general experience those individuals are detained.
24 There's always exceptions.

25 But I'll tell you, in the child exploitation realm, in

1 this courthouse, on the cases that I've handled for the last 10
2 and a half years, not one single defendant that I'm aware of has
3 ever received pretrial release who's been accused of exploiting a
4 child by producing child pornography. And none of them had the
5 overseas ties and the double life that this defendant had.
6 Clearly, trust is not possible.

7 The combination in this case of the high danger that
8 the defendant is to the community -- and that danger exists if he
9 was only trafficking in child pornography, but, of course, it
10 exists in this case because he's exploiting children all over the
11 world and he has been for years -- that danger cannot be in any
12 way minimized by any pretrial conditions. And that's assuming
13 that he could be, that it could be assured that he would show up
14 for trial, which, of course, it could not.

15 Your Honor, based on all of that, unless the Court has
16 questions for the government, based on the proffer, obviously,
17 I'd like to potentially respond to anything the defense says, but
18 that is the government's proffer. And we'd ask that the
19 defendant remain detained.

20 THE COURT: Thank you, Mr. Budlow. Mr. Johnson.

21 MR. FEIN: Your Honor, if I may.

22 THE COURT: Yes, Mr. Fein.

23 MR. FEIN: Your Honor, I'll ask the Court, and I don't
24 know, obviously, the answer. There was a transcript from the
25 prior proceeding. I don't know if the Court had an opportunity

1 to review that transcript.

2 THE COURT: I have not reviewed it.

3 MR. FEIN: Thank you, Your Honor. I do have a witness
4 I would like to call.

5 THE COURT: Yes.

6 MR. FEIN: Ms. Belinda Hall.

7 THE CLERK: Please raise your right hand.

8 BELINDA HALL, DEFENDANT'S WITNESS, SWORN

9 THE WITNESS: I do.

10 THE CLERK: Thank you. You can have a seat. Please
11 state and spell -- move your mike down. Adjust your chair just
12 so you're talking right into the microphone. State and spell
13 your first and last name for the record.

14 THE WITNESS: Belinda Hall, B-E-L-I-N-D-A, H-A-L-L.

15 THE CLERK: Thank you.

16 MR. FEIN: Thank you, Your Honor. Do you have a copy
17 of the Pretrial Services report?

18 THE COURT: I don't.

19 MR. FEIN: Okay. I do. I'm only asking because there
20 have been some changes to the family's financial circumstances
21 since that report was first compiled. So I'll get into that in a
22 moment with her.

23 MR. BUDLOW: May I approach, Your Honor?

24 THE COURT: Sure.

25 DIRECT EXAMINATION

1 BY MR. FEIN:

2 Q Ms. Hall, do you know Martin Hall?

3 A Yes.

4 Q And how do you know Mr. Hall?

5 A I've been married to him for 30-plus years.

6 Q Do you have any children with Mr. Hall?

7 A We have two children.

8 Q How old are your children?

9 A Our daughter is 27 and our son will soon be 24.

10 Q Are they close with their father?

11 A Yes.

12 Q They're aware of his current situation?

13 A They are.

14 Q Have they ever made any complaints about him to you?

15 A No.

16 Q Any of their friends growing up ever made a complaint about
17 him to you?

18 A No.

19 Q In the past, your family attended a church together as a
20 family, is that correct?

21 A Yes.

22 Q You are reasonably close with the pastor at that church?

23 A Yes.

24 Q Your husband is as well?

25 A Yes.

1 Q He came into contact with children at that church, is that
2 correct?

3 A Yes.

4 Q On a regular basis?

5 A It's hard to say regular but, just because he traveled so
6 much for his work. But yes, we were regular. It's a small
7 church.

8 Q Did any member of that church community ever lodge a
9 complaint against your husband in any way, shape or form?

10 A No.

11 Q Has any child, to your knowledge, ever lodged a complaint
12 against him to you, to any member of your family, or law
13 enforcement?

14 A No.

15 Q I'd like to ask you some questions about the family finances
16 first. And, Your Honor, if I could direct you to Page Two of the
17 Pretrial Services report. Ms. Hall, you can't see what I'm
18 looking at, but you'll know what I'm referring to. Can you tell
19 me what steps you've taken in the last two months to transfer all
20 family assets out of your husband's name and into your name?

21 A Sure. So we did have a joint checking and savings account
22 that now is in my name only. The deed to our home is now in my
23 name only. The title to the one car that we own is now in my
24 name only. There were three different credit cards that were in
25 my husband's name only that have been canceled. There was a

1 checking account that was in my husband's name only and, to the
2 best of my ability, there is only one penny in that account.

3 Q Is there a home equity line?

4 A There is a home equity line. And I was told by the bank
5 that you can't take names off of debt. So that home equity line,
6 I guess, would technically still have both of us listed.

7 Q Okay. If, if Mr. Hall were released, could the bank then
8 remove him from that line of credit?

9 A I don't know. I assume. I also -- sorry.

10 Q No. Forgive me.

11 A I was just going to say, I also assume that if we're able to
12 sell our home, that that loan would then be paid off and then
13 would no longer exist.

14 Q And I think you already testified to this. Whose name is
15 the home in?

16 A The home is in my name.

17 Q It is not in Mr. Hall's name?

18 A It is not in Mr. Hall's name.

19 Q And you have power of attorney over his financial affairs,
20 is that correct?

21 A That is correct.

22 Q So you have complete control over anything he had access to,
23 is that right?

24 A I don't know how it works with his IRA. So his -- that, I
25 do not have control over.

1 Q And --

2 A Sole control over. Does that make sense? Like I can't
3 take, I can't put those in my name only. So, theoretically, he
4 could, I guess, have access to that.

5 Q And you're talking about his retirement account, correct?

6 A Yes, right.

7 Q And as you understand it, if he -- would one condition of
8 bond, if he were to, if the Court were to admit Mr. Hall to bail,
9 would one condition be to place his retirement account as
10 security for his release? Would that be a condition?

11 A Sure. Yes.

12 Q Had we discussed that in the past?

13 A Yes.

14 Q And the Pretrial Services report lists two cars. But if I
15 understand you right, you've sold one and you only have one car
16 at this point in time, correct?

17 A It's not completely accurate to say I sold it. But we now
18 only own one car.

19 Q Okay. Which car is that?

20 A It's a Subaru. I can't remember the year. 2011, I think.

21 Q That's okay. I can see it on there. So to the best of your
22 knowledge, what remains is a home equity line and a retirement
23 account, correct?

24 A Yes.

25 Q There's nothing else out there that --

1 A To the best of my knowledge, that is what exists.

2 Q Have you ever been convicted of a crime before?

3 A I have not.

4 Q Have you ever been charged with a crime before?

5 A No.

6 Q Okay. Have either of your children?

7 A No. Not to my knowledge.

8 Q And who is here in court with you today?

9 A Who's here today? My parents are here and the pastor of our
10 church and his wife.

11 Q And they're aware of the charges pending against Mr. Hall,
12 correct?

13 A Yes.

14 Q If -- would you agree to act as a third-party custodian for
15 your husband?

16 A Yes.

17 Q Would your parents assist in that endeavor, if need be?

18 A They have said they would.

19 Q Between yourself and your parents, could you ensure that
20 there was somebody at the home at all times on all days?

21 A We would be willing to make that commitment.

22 Q So Mr. Hall would not be left alone at any time?

23 A That would be our intention.

24 Q Would you agree, as a condition of bond, to permit Pretrial
25 Services to place software monitoring equipment on your

1 computers?

2 A Yes.

3 Q Would you agree to permit Pretrial Services to install
4 software monitoring, monitoring software on your cell phone?

5 A Yes.

6 Q How many computers do you have in your home?

7 A One desktop and one laptop.

8 Q Okay. If I recall, you used to have three, is that correct?

9 A Three what?

10 Q Computers in the home?

11 A It's very possible. I mean -- you mean before the
12 government took some computers? We had --

13 Q No.

14 A -- more than that.

15 Q No, no. Since your husband's been detained. I thought
16 there were three?

17 A There was another laptop and that has been lent out to a
18 friend.

19 Q Okay. So now there are only two in the home? One laptop --

20 A There is a desktop and there is a laptop currently in the
21 house.

22 Q And the desktop, is that in your home office?

23 A In my, what I call my home office, yes.

24 Q Could you keep that under lock and key?

25 A Could I lock the door to that room?

1 Q Um-hum.

2 A I don't know. I mean, we could arrange to. I don't know if
3 there's currently a lock on that door.

4 Q If it were required as a condition of bond, would you be
5 willing to do so?

6 A We'd figure it out, yes.

7 Q If it were required as a condition of bond, would you keep
8 the laptop with you?

9 A Yes.

10 Q And, again, you would be willing to subject both of those to
11 monitoring?

12 A Yes.

13 Q Would you agree to GPS monitoring of the family car, the
14 sole family car?

15 A Yes.

16 Q If the Court desired, would you agree to, at the family's
17 cost, to place a camera either outside or inside the home so that
18 Mr. Hall could be monitored in that way as well?

19 A Yes.

20 Q This is the second time that you testified in connection
21 with this case, is that correct?

22 A Yes.

23 Q You were here several months ago and testified during the
24 first detention hearing, is that correct?

25 A Yes.

1 Q And at that time you heard the same allegations or many of
2 the same allegations that the government has made today, correct?

3 A Many, yes.

4 Q One moment, Your Honor. I have no further questions for Ms.
5 Hall, Your Honor.

6 THE COURT: Mr. Budlow.

7 CROSS EXAMINATION

8 BY MR. BUDLOW:

9 Q Good afternoon, Ms. Hall. We have been through this once
10 before so I apologize if I have to ask you some of the same
11 questions again. Is it fair to say, within reason, there's
12 pretty much not anything that you wouldn't do if it would allow
13 the Court to send your husband home?

14 A I don't know how to answer that kind of a hypothetical. I'm
15 sorry.

16 Q You would probably get rid of all of your phones and all of
17 your computers and any Internet access with other gadgets, right?

18 A I can't, I cannot truthfully say absolutely yes to that
19 question.

20 Q Put bars on the windows and lock the door when you leave,
21 before you left?

22 A To -- I don't understand.

23 Q Would you put bars and locks on the doors so he couldn't get
24 out when you left?

25 A I'm sorry. I'm having a very hard time with these

1 hypothetical questions.

2 Q Is your husband close with the pastor?

3 A We've been friends for decades.

4 Q And decades meaning at least 20 years?

5 A So we -- I have to do the math.

6 Q I'll withdraw that.

7 A Sixteen years. This church, the church that we are part of
8 started 15 or 16 years ago. We've known them since then.

9 Q And is it fair to say that that church and your husband's
10 faith are important to you?

11 A I would say yes.

12 Q And that was true 15 to 20 years ago, also?

13 A It was true 15, 20 years ago. It may not always have been
14 true.

15 Q Were you aware that your husband was using Western Union to
16 send payments overseas?

17 A I was not aware.

18 Q Do you have any idea where the money came from to make those
19 payments?

20 A I now have some idea but I don't have, I don't know for
21 certain, no.

22 Q Where is it? What idea? Where you do you think it came
23 from?

24 A I believe he may have used some of the money we have
25 invested with a financial adviser, but I don't know that to be

1 true. That's an idea that I have.

2 Q You can't possibly know whether or not he has accounts
3 overseas, can you?

4 A I cannot know that.

5 Q Do you work?

6 A I work very hard.

7 Q Roughly how many hours a week?

8 A I usually sleep about eight hours a day. So 14 hours.

9 Q And is that out of the house or in the house?

10 A Both in and out of the house. If you're asking if I'm paid
11 for the work that I do, no, I do not, I am not paid for any work
12 I do outside the home.

13 Q I'm sorry. I was just wondering if you can tell us like
14 roughly how many hours a week you work outside the home?

15 A It's, it's going to be changing because my voluntary
16 commitments are coming to an end. So I assume you're asking me
17 for going forward. And going forward, at this time my schedule
18 would be my own to schedule how I want to schedule it. Does that
19 get at what you're trying to ask me?

20 Q Sure.

21 A Okay.

22 Q What's your source of income?

23 A I do not have a source of income right now.

24 Q What's -- where is the income coming from that pays the rent
25 and buys the food?

1 A Right. We have received some financial help from family
2 members and I have also used funds from our home equity line of
3 credit.

4 Q And before your husband was in custody, what was the primary
5 source of family income?

6 A It has always been my husband since our children were born.

7 Q And roughly how old are your parents? Ballpark?

8 A My father is about to turn 75. My mother is 74.

9 Q And would it -- you heard my description of your husband's
10 computer expertise. Do you think that was a fair description,
11 that he's a highly sophisticated computer user and computer
12 programmer?

13 A Yes.

14 Q Do you understand the computer stuff that he does?

15 A Some of it.

16 Q Do you know what Java is?

17 A I do.

18 Q What is Java?

19 A Java is a computer programming language.

20 Q Do you know how to write Java?

21 A I do not.

22 Q What's your level of computer sophistication?

23 A I'm comfortable using a computer. I have never taken a
24 computer programming class. Both of my children are also
25 computer science people, so there's a lot of lingo that has been

1 discussed at the dinner table.

2 Q And lots of people for you to ask for help if you need it?

3 A Absolutely.

4 Q Thank you. That's all I have.

5 THE COURT: Thank you very much, Ms. Hall.

6 MR. FEIN: Thank you, Your Honor. Mr. Budlow had much
7 to say about the evidence in the case and, obviously, the case
8 will work itself through to completion at some point. Some of
9 the evidence is difficult. Some of it less so. But the hearing
10 today isn't so much about the evidence. We're not here to
11 litigate the case and try the case. But just to comment on a
12 couple of things.

13 Mr. Budlow has shown you pieces of paper with comments
14 made between individuals, presumably. The individuals behind
15 those statements he hasn't been able to show you at all. These
16 are assumptions about the individuals who are communicating,
17 assumptions about whether or not what they say is truthful and
18 accurate, assumptions about whether or not they're role playing
19 or not. Many people do engage in Internet communications and
20 computer-based communications on a basis that is less than
21 accurate. Many people role play.

22 He spoke to you about a computer software program
23 called Freenet. That's a popular peer-to-peer program that he
24 described as highly sophisticated. You can download it today
25 from your home if you wish, and it doesn't take a great deal of

1 sophistication to use it.

2 But I think those are all secondary matters to what
3 really brings us here. And what really brings us here is what
4 will this Court do with a man who's accused of a crime, who's
5 been convicted of nothing, given the standards that the Court has
6 to apply? And I agree that there's a presumption of detention,
7 but that presumption places a limited burden on Mr. Hall. And
8 that limited burden is to come forward with some evidence to
9 suggest that he's not a risk of flight and not a danger to the
10 community.

11 And the burden of persuasion lies with the government.
12 And to persuade you that no such conditions can be satisfied in
13 this case, Mr. Budlow has primarily pointed to evidence in the
14 case and less so to many of the facts surrounding Mr. Hall and
15 Mr. Hall's family, although he has engaged, Mr. Budlow did engage
16 in a bit of speculation, I'd say.

17 So, first, Congress has classified this as a crime of
18 violence. It's classified many crimes as crimes of violence.
19 And not every violation in the United States Code that might fall
20 within that classification is the same. Some are different than
21 others. Some crimes of violence take place on the streets where
22 individuals are injured in a face-to-face setting. For example,
23 a robbery, a murder, sexual assault, that take place in public
24 where individuals come into contact.

25 Much of the evidence against Mr. Hall, the allegations

1 that focus on him, took place in his home, in the privacy of that
2 home, where he came into contact with nobody. And, of course, if
3 I have my way, that's where he'll be if he's admitted to bail.

4 So even though it is a crime of violence, and even
5 though there is this presumption that places on him this limited
6 burden, I think the Court should think about what the crime is
7 and whether it's analogous to all sorts of crimes of violence
8 that might suggest he poses some clear danger to citizens here in
9 the State of Maryland, in the City of Baltimore in particular.

10 That said, let me focus first on flight. Mr. Budlow
11 suggests that Mr. Hall poses a grave risk of flight. And I think
12 at the end his questioning a moment ago he was suggesting that
13 perhaps Mr. Hall might have accounts somewhere else in the world.
14 I guess that's true. I might as well. But, certainly, there's
15 absolutely no evidence of that. The evidence of his financial
16 resources is in the Pretrial Services report and the evidence
17 about that you heard today. And the evidence is that he has no
18 access to anything except a retirement account, which he will
19 submit to the Court as collateral to secure his release.

20 All other funds are in the name of his wife, who has
21 control of them, who appears to me to be a credible witness, who
22 has no prior history of convictions, no prior history of
23 criminality, no prior arrests. And her and her family will act
24 as third-party custodians to watch over him.

25 With respect to fleeing abroad, a couple of things. As

1 I note in motion that I filed, Mr. Hall has no passport. And
2 through a simple order of this court, even if he were foolish
3 enough to apply for one, which I believe he would not be, the
4 State Department would not issue him one, simply through an order
5 of this Court. And the law that provides for that is contained
6 in a footnote in the motion that I filed and is part of the codes
7 of federal regulations.

8 So he has no passport and he has no possibility of
9 getting one. I would suggest the notion of his flight abroad is
10 a bit of a fantasy.

11 He also has two children that live in this country that
12 he loves. I think asking him, suspecting that he would leave
13 them or to turn his back on them betrays a misunderstanding of
14 his connection to his family, whatever the government might say
15 about this alleged double life that he was leading.

16 So no passport, family here, children here. What else
17 can be done to ensure that he doesn't flee the area? You can
18 place a monitor on him. It's true he can cut it off. Anyone can
19 cut those off. What statistical evidence is there to suggest
20 that he would cut that off? None. What real evidence is there
21 to suggest that he might cut that off? None. He's certainly
22 never done anything like that in the past. He's never even been
23 in the past charged with a crime or an offense.

24 So they can put a monitor on him. They can put a GPS
25 locator on the family car, for which the Halls will pay. Put a

1 camera outside the house to watch the home, for which the Halls
2 will pay. He will post his entire retirement fund with the
3 Court, all that he has to live on in the future, and a life
4 insurance policy that he has, which he would also post with the
5 Court, leaving him with no funds to his name and no access to
6 funds given that his wife has power of attorney and has taken
7 care of the family finances by transferring them all to her name.

8 His wife has time. She is willing to act as a third
9 party custodian to make certain that he does not leave the home,
10 in addition to the monitoring. If for some reason she couldn't
11 be there, her family is willing to be there, the same family
12 that's here today, to make sure that there was somebody with Mr.
13 Hall at all times.

14 His own family is willing to do the same, that is his
15 own parents, are willing to help as well to ensure that there is
16 somebody at all times with Mr. Hall.

17 One of the reasons or another issue that Mr. Budlow
18 raised that I did raise in my motion is that, because the
19 magistrate judge looked at it, is the statutory range of
20 punishment. Mr. Budlow might be right. Maybe in this
21 jurisdiction there are individuals charged with maximum penalties
22 of 30 and 20 or life terms that don't receive bail, but there are
23 many jurisdictions in which they do. And in the motion that I
24 filed, I cited statistics from the Bureau of Justice Statistics
25 that indicate individuals like that do receive bond.

1 More importantly about those statistics was this fact,
2 because it's an argument I hear commonly in court from the
3 government, and Mr. Budlow made the same argument. And that is
4 that this gentleman just presents too great a risk of flight. If
5 you look at the data, the data suggests that, in a given year,
6 less than 1% of the people flee. Empirically, the number of
7 individuals who flee are exceedingly low. And generally, they're
8 not laboring under the kinds of conditions that Mr. Hall has
9 submitted he will labor under -- a monitor on his home, a monitor
10 on the car, a monitor on his ankle, divestment of all funds in
11 which he has an interest, home detention, random pretrial visits,
12 family members present at all times, a camera outside, a camera
13 inside.

14 Given the statistical unlikely, low likelihood
15 statistically of anyone fleeing to begin with, I would suggest
16 that the notion that he would flee with no funds and no passport,
17 and children he loves, is exceedingly remote.

18 And the burden is simply whether or not, more likely
19 than not, there is some combination of conditions that can
20 reasonably assure his appearance at trial. And I would submit to
21 the Court that, given all of that, unquestionably there are a
22 combination of conditions of release that will reasonably assure
23 that. And those combination of conditions of release are those
24 that we submitted to the Court. And, of course, that would
25 include him providing to the Court his own retirement account to

1 secure his release. Obviously, if he fled, he would lose that.

2 So no passport, monitors, giving up all his funds,
3 getting off, divesting of all funds -- I don't know what more any
4 human being could do to assure the Court.

5 I'll remind the Court that there are cases, there are
6 different cases, there are financial frauds, but individuals with
7 much greater connections around the world. For example, Bernie
8 Madoff. Different crime, a financial fraud. Billions of
9 dollars. Permitted to, admitted to bail. Admitted to bail
10 because there were a combination of conditions of release that
11 would reasonably assure his appearance, despite all the
12 connections he had, despite the funds he had, despite the fact
13 that he might have had funds in bank accounts around the world.

14 So I submit that there is a combination of conditions
15 of release that will reasonably assure Mr. Hall's appearance.

16 What about danger? Much of the focus, Mr. Budlow is on
17 allegations of Mr. Hall's activities abroad. What you didn't
18 hear a word about, a whit about, is any allegation of some
19 misconduct involving another individual here in the United
20 States.

21 THE COURT: Does that matter?

22 MR. FEIN: Here's the difference. Mr. Hall is 54 years
23 old now, I believe. There's no allegation he's ever acted in a
24 manner untoward towards any child or adult here. So if that's
25 the case, and the allegation is abroad he has endangered people,

1 which even for the moment just concede that fact, I'll concede
2 that fact, there's no allegation that he's ever been a danger to
3 anybody here, which is where he'll be staying in his home, 24
4 hours a day, locked down.

5 My point is that there's no evidence that he, in that
6 condition, in that setting, that would pose a danger to anybody.

7 Now, the government, I think, tries to suggest that
8 because he's sophisticated with computers, somehow he'll manage
9 to get on a computer, that would pose some danger to somebody. I
10 think that's farfetched. And I don't think it's all trust.
11 That's precisely the reason for all the conditions.

12 If he has no computer to access, no phone to access, if
13 his wife's computers are monitored, if one is under lock and key,
14 if the other is by her side, then he has no computer to access.
15 I would submit to the Court that even accessing a computer and
16 using it, even if it were for some wrongful purpose, which I
17 submit he wouldn't do, but if he did, that would not be the kind
18 of danger that the government is talking about where it alleges
19 he's had contact directly with minors or those who are presumed
20 to be minors abroad because that has not ever happened here,
21 where he will be, and there's no suggestion that it would happen
22 in the future if admitted to bail.

23 So I think the suggestion that he poses a grave threat
24 to children everywhere, which was the claim of the government, is
25 beyond what the evidence will bear.

1 I'll say this, too, because there were a few grounds in
2 which the magistrate judge relied to deem Mr. Hall a danger to
3 the community, and I do take issue with them. The notion that he
4 had a large number of images, I have no doubt the Court reviewed
5 my motion. The number of images even alleged today, the
6 4,000-plus, some of which may constitute child pornography under
7 the relevant federal definition, some of which may not, according
8 to Mr. Budlow, is by no means a large number. As I indicated in
9 my motion, the United States Sentencing Commission indicates
10 there are people who've had hundreds of thousands, upwards of a
11 million and over. So even using image count as an indicator of
12 danger, which I think is an error, would not suggest anything
13 other than Mr. Hall is an ordinary offender, if you accept the
14 government's argument on that number.

15 But I think the magistrate was in error in relying on
16 that factor because I don't think it has any great significance
17 or bearing on danger to the community.

18 What the magistrate relied on more, I suspect, was this
19 notion of sophisticated computer user and notions of him being in
20 the home where he committed the offense. He was in the home.
21 That is where the allegations suggest he committed a part of that
22 offense. However, at that time he was certainly not under the
23 same kind of scrutiny from family that he would be at this point.
24 Certainly, he was not under the same set of conditions that he
25 would be if this Court were to admit him bail on the combination

1 of conditions that we suggest.

2 I think another important factor is what is the
3 standard for making a determination about danger to the
4 community. And that standard is not the same standard that
5 applies to risk of flight. It's clear and convincing evidence.
6 That is a much higher standard. It's the standard that's used to
7 make determinations such as whether or not, whether or not a life
8 of somebody on life support who wishes to be terminated ought to
9 be, whether or not a child should be removed from parents. This
10 is a standard of proof that is much higher than a preponderance
11 of the evidence.

12 And I would suggest to the Court that, based on
13 everything it's heard, there again are a combination of
14 conditions of release that will ensure that he doesn't pose, that
15 will reasonably assure -- that's the language of the statute --
16 reasonably assure that he doesn't pose a danger to the community.
17 And it's many of the same conditions.

18 He'll be in his home 24 hours a day under the watch of
19 another, with a monitor on his leg, with a GPS on his car, with
20 no passport, with no funds.

21 The limitations posed on, imposed on his liberty by
22 those conditions, I don't want to overstate. It's not jail, but
23 they're substantial. And they're very substantial. It may be
24 that Mr. Budlow has never heard of anybody charged like Mr. Hall
25 getting a bond. But that's not the issue. The issue is, given

1 the standards, are there a combination of conditions of release
2 that can reasonably assure the safety of the community and his
3 appearance at trial. And I believe on the combination of
4 conditions submitted, the answer to that question must be yes.

5 The Court might not like the allegations. And I
6 suspect that's why Mr. Budlow spends a lot of time talking about
7 them. I understand that. Most people don't like those
8 allegations. I suspect Ms. Hall doesn't like those allegations,
9 which, again, she strikes me as a credible and decent woman, will
10 live by her words, and has done everything she can to date to try
11 to make it possible for Mr. Hall to be in his home while his case
12 progresses, which would be very helpful to me as well.

13 As I've indicated in the motion that I filed, there are
14 significant disabilities placed on people who are confined
15 pretrial. Not only are they removed from family and friends and
16 that human content, but it is very difficult to communicate with
17 counsel. It's very difficult to actively participate in your
18 defense.

19 Now, Mr. Hall retained counsel out of town. That's not
20 a Bail Reform Act consideration. But it does make communication
21 between the two of us difficult. I have to FedEx materials to
22 him overnight and he has to FedEx them back. The jail will not
23 allow us to have an unrecorded call. If I need to see him
24 personally, I have to fly here to Baltimore to meet with him and
25 speak with him. That's a consequence of decisions he made to

1 hire out-of-town counsel. I understand that. But nevertheless,
2 these are disabilities imposed on a man accused of a crime, not a
3 man convicted of a crime, and a man who could have clearer, more
4 effective communication with counsel under very stringent
5 conditions if admitted to bail.

6 So I think, Your Honor, given the standards that apply,
7 given the conditions that Mr. Hall has submitted to the Court,
8 given the commitment his family is willing to make with him, an
9 honest commitment from honest individuals that this Court would
10 have no reason to doubt, I think there are a combination of
11 conditions of release that will satisfy the standards of the Bail
12 Reform Act, and I think the Court could be highly confident that
13 Mr. Hall will do nothing other than participate meaningfully in
14 his defense, appear in court as required, and see the case
15 through to resolution, whatever that resolution might be.

16 So I'd ask the Court to revoke the detention order of
17 the magistrate judge, admit Mr. Hall on the combination of
18 conditions of release proposed, and allow us to carry on with his
19 case. Thank you, Your Honor.

20 THE COURT: Thank you, Mr. Fein. Mr. Budlow.

21 MR. BUDLOW: Your Honor, I don't give the facts of this
22 case because you don't like them or because Mrs. Hall doesn't
23 like them, I give them because they demonstrate that the
24 defendant poses a risk to the community.

25 And I give them because the Bail Reform Act says that

1 the weight of the evidence is a factor that this Court should
2 consider. That's why I painstakingly went through the facts,
3 showing that not only is all this evidence established, that the
4 evidence is truly at this stage very strong against the defendant
5 for all of the counts, but it also reflected his travel, his
6 duplicity, and the fact that this isn't, despite the fact that
7 the indictment charges one victim, this is a pattern of conduct
8 that the defendant has engaged in for 15 years.

9 He's not Bernie Madoff because Bernie Madoff was known
10 to everybody. So if Bernie Madoff got near JFK, people were
11 going to know it. Bernie Madoff did not have a second life with
12 families all over the United States and all over the world. And
13 more importantly, Bernie Madoff did not abuse children.

14 It's not even close to say that this is not a real
15 crime of violence. I guess a bank robbery with a note to Mr.
16 Fein would be a real crime of violence, but production of child
17 pornography isn't. Well, Congress says otherwise. And to say
18 that the defendant can't reoffend sitting in his house, which is
19 what he's been doing for 15 years while he collected thousands of
20 images and videos of young Asian girls having sex with men that
21 look just like him, to say that he's not exploiting those
22 children does them a disservice, but it ignores the evidence that
23 he's also been traveling overseas and communicating with real
24 people who said they're minors or said that their younger
25 siblings are minors, and that he's paying them for sex down later

1 the road and he's taking them on vacations when he goes.

2 I suppose they, the defense will argue to a jury one
3 day that this is fantasy. But that would be a much stronger
4 argument if there wasn't thousands of images of child pornography
5 of the defendant on his computer, and there weren't produced
6 child pornography images with his camera. So there's abundant
7 evidence in this case that isn't fantasy.

8 I just want to make a couple other points about
9 release. I didn't bring up this issue that nobody else gets
10 released from these types of charges in this district. The
11 defense brought that up by saying there's all these other cases
12 out there where people get released, none of which, of course,
13 were child exploitation.

14 And the data that reflects -- and I don't know if it's
15 accurate, but I'll take Mr. Fein at his word, that 1% of people
16 flee. Well, guess what? That data is that good because people
17 like the defendant, who live double lives, that have overseas
18 families and have complete hidden lifestyles from everybody they
19 know, who abuse children, they don't get bail. So you're not
20 going to see the defendant and people like him represented in
21 that data.

22 Your Honor, the Presentence Report lists the evidence
23 of money that the defendant gave. So I understand the defense
24 says the government's speculating when they say you might have
25 money overseas. And if I asked that in any other case, you might

1 say, yeah, where did that come from? It came from out of left
2 field. Well, it's not left field in this case. The defendant
3 travels overseas for many, many months at a time and nobody knows
4 he's doing out there. In fact, he hides what he's doing. So in
5 this case, it's a little more reasonable for the Court to say
6 not, yes, he has money overseas, but, no, I can't believe
7 anything he says to Pretrial because his wife couldn't believe
8 anything he was saying for the last 15 years and neither could
9 anybody else.

10 Your Honor, unless you have additional questions for
11 me, I could continue to respond to most of the points, but I
12 think that the case is overwhelming that this is a defendant who
13 the risks are too high, the danger he presents is too high, and
14 the risk of flight is too high.

15 THE COURT: Well, I'm going to deny the motion. Mr.
16 Fein's made an excellent presentation, and the combination of
17 conditions would certainly help alleviate the risk of flight and
18 the danger to the community. But I can't find on this evidence
19 that there isn't a risk of flight and a danger to the community.

20 The absence of the passport is a factor. But that
21 really doesn't prevent the defendant from leaving the country.
22 And he's gone to Canada.

23 And sophistication, although it's limited to computers,
24 does, you know, I can't help but think that with the traveling
25 experience that the defendant has had, that he couldn't arrange

1 for another passport.

2 I think the danger to the community, I think it's
3 worldwide. I don't -- I certainly respect Mrs. Hall and don't
4 find her incredible. But the proffer before me establishes that
5 there has been a double life lived for a substantial period of
6 time.

7 And so I deny the motion. Thank you.

8 (Conclusion of Proceedings at 3:51 p.m.)
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11 WITNESS: BELINDA HALL

PAGE

12 DIRECT EXAMINATION BY MR. FEIN

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13 CROSS EXAMINATION BY MR. BUDLOW

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REPORTER'S CERTIFICATE

I, Mary M. Zajac, do hereby certify that I recorded stenographically the proceedings in the matter of USA v. Martin Robert Hall, Case Number(s) JFM-16-469, on May 11, 2017.

I further certify that the foregoing pages constitute the official transcript of proceedings as transcribed by me to the within matter in a complete and accurate manner.

In Witness Whereof, I have hereunto affixed my signature this _____ day of _____, 2017.

Mary M. Zajac,
Official Court Reporter

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